

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,	)	
to address out-of-service arc wire in the	)	Case No. U-18484
city of Detroit.	)	
_____	)	

At the March 15, 2018 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman  
Hon. Norman J. Saari, Commissioner  
Hon. Rachael A. Eubanks, Commissioner

**ORDER**

**Background**

On December 7, 2017, the Commission issued an order in Case No. U-18172 closing the docket regarding an investigation into an accidental electrocution that occurred in Detroit on September 7, 2016. Also on that date, the Commission issued an order in Case No. U-18484 (December 7 order), directing DTE Electric Company (DTE Electric) to work with the Commission Staff (Staff), the City of Detroit Public Lighting Department (DPLD), and other relevant entities to develop a comprehensive, well-planned, and long-term approach to address

electric equipment safety associated with out-of-service arc wire in Detroit.<sup>1</sup> A full accounting of DTE Electric's efforts is to be set forth in a report filed with the Commission by March 30, 2018.<sup>2</sup>

### Petition for Rehearing

On January 8, 2018, DTE Electric filed a petition for rehearing as provided by Mich Admin Code, R 792.10437(1), which states, in pertinent part:

A petition for rehearing after a decision or order of the commission shall be filed with the commission within 30 days after service of the decision or order of the commission unless otherwise specified by statute. A petition for rehearing based on a claim of error shall specify all findings of fact and conclusions of law claimed to be erroneous with a brief statement of the basis of the error. A petition for rehearing based on a claim of newly discovered evidence, on facts or circumstances arising subsequent to the close of the record, or on unintended consequences resulting from compliance with the decision or order shall specifically set forth the matters relied upon.

In its petition, DTE Electric asserts three claims of error. First, the utility contends that the Commission attempted to expand its jurisdictional authority when it directed DTE Electric to "achieve certain results with respect to arc wire removal through collaboration with the DPLD." DTE Electric's petition for rehearing, p. 3. DTE Electric professes that it "does not own, operate, or have any legal rights or obligations whatsoever to the DPLD arc wire." *Id.* Second, the utility states that "plans to remove arc wire must be considered in the context of DTE Electric's distribution system upgrade as well the Company's planned installation of the fault identification system for which it has requested recovery in its pending rate case." *Id.*, pp. 3-4. DTE Electric points out that the Commission has acknowledged that it might not be cost effective to spend

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<sup>1</sup> Arc power lines, also called arc wires, arc circuit wires, or arc circuit conductors, are specific wires that were formerly used to supply electricity to arc-type street lamps. Arc lamps are considered obsolete. In the City of Detroit, a new lighting system has been installed; but, numerous arc wires remain attached to utility poles.

<sup>2</sup> See, December 7 order, p. 5.

millions of dollars removing arc wire, only to later install upgraded electrical equipment and utility poles. *Id.*, p. 4. Third, the company asserts that separate planning and reporting for arc wire removal is not supported by law, because, as stated above, DTE Electric does not own or have responsibility for the arc wire, and “[o]ther more reasonable and less resource intensive methods of identifying the extent of remaining arc wire throughout the City [of Detroit] can provide similar information that will allow DTE Electric to develop cost projections for arc wire removals and will aid in establishing removal priorities as part of the greater distribution system upgrade.” *Id.*, p. 5.

DTE Electric states that its desired remedies are: (A) the Commission acknowledge that “DTE Electric does not have any independent authority to address DPLD owned arc wire;” (B) the Commission acknowledge that “DTE Electric will make good faith efforts to cooperate with DPLD to remove arc wire as part of its 4.8 kV [kilovolt] hardening program;” (C) allow “planned arc wire removals to be included as part of the Five Year Distribution Plan required to be submitted pursuant to the Commission Order in U-18014;” (D) accept “the Company’s arc wire survey methodology using existing digital maps and annual physical inspections to identify the extent of arc wire;” and (E) maintain “flexibility for DTE Electric and Staff to work together on a cost recovery mechanism for arc wire removals.” *Id.*, pp. 6-7.

### Discussion

The Commission acknowledges that DTE Electric raises relevant questions regarding the December 7 order and so grants the petition for rehearing and grants in part the requested relief. The Commission believes the following clarifications regarding the intent of the order will address the company’s concerns.

The Commission recognizes that DTE Electric does not own the arc wire and does not have independent authority to address the city-owned arc wire. The Commission’s December 7, 2017

order in Case No. U-18172 clearly acknowledged that DTE Electric does not have ownership of, or responsibilities for, the out-of-service arc wire.<sup>3</sup> Notwithstanding, the Commission is responsible to promote programs to ensure the safe delivery of electricity to the residents of Michigan.<sup>4</sup> And, as also referenced in the U-18172 order,<sup>5</sup> Mich Admin Code, R 460.3801, Protective Measures, requires that “[e]ach electric utility shall exercise reasonable care to reduce hazards to which its employees, its customers, and the general public may be subjected.” DTE Electric, as an electric utility regulated by the Commission, is also subject to Mich Admin Code, R 460.3505, requiring a program of “maintaining adequate line clearance through the use of industry-recognized guidelines. . . . The program shall include tree trimming.” The subject arc wire is generally not electrified until and unless it comes in contact with DTE Electric’s distribution system. Proper clearances around DTE Electric facilities, including tree trimming, can also affect the likelihood of downed wires and related hazards. Therefore, DTE Electric’s cooperation and actions are integral to any plan to remedy this potentially hazardous circumstance. While arc wire is clearly not owned by DTE Electric, ensuring proper clearances and the safety of its electric distribution system are proper subjects for a Commission order.

For the purposes of clarification, the Commission did not intend its December 7 order to be interpreted as a “directive to remove the arc wire.” DTE Electric’s petition for rehearing, p. 2. Nevertheless, there is a sense of urgency in dealing with the arc wire, in that lives may be harmed or lost so long as the wire remains in proximity to DTE Electric’s distribution system. DTE Electric must take a proactive approach. To be clear, the Commission is less concerned about

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<sup>3</sup> See, December 7, 2017 order in Case No. U-18172, p. 6.

<sup>4</sup> See, *e.g.*, MCL 460.551, 460.552, and 460.555.

<sup>5</sup> See, December 7, 2017 order in Case No. U-18172, p. 1.

prescribing the specific approach to identifying and remedying the potential hazards or directing DTE Electric's interactions with the City. But, in bringing about solutions to maintain its electric facilities in a manner that protects the safety of the public and its employees, the Commission believes it is essential that the company have a sense of urgency and commitment to address any safety concerns, collaborate with appropriate entities, and provide a transparent and risk-based assessment to cost-effectively address safety hazards. Thus, the Commission grants in part DTE Electric's request for rehearing as it relates to the development of an "overlay" map, the use of "outside resources" to assist with this activity, and the integration of this effort with the company's overall distribution planning effort. If DTE Electric does not believe that an independent overlay study would be a cost-effective next step, DTE Electric is encouraged to develop another method or manner in which to assess risks to its distribution facilities, that is thorough, complete, and cost-effective.

The Commission remains open to alternate methods provided further significant delays are avoided. DTE Electric must indicate by the original deadline of March 30, 2018, in the form of a filing in this docket whether it intends to submit an alternate plan or comply with the Commission's previous order regarding an independent analysis. Should the company decide to present an alternate plan, it must be filed in this docket no later than June 19, 2018. The Staff shall respond by July 31, 2018, as to whether it deems the company's alternate approach to be adequate to meet the Mich Admin Code standards, as discussed previously. Any methodology to address the hazard presented by the arc wire coming into contact with DTE Electric's facilities that is incorporated into its 4.8 kilovolt (kV) hardening program should isolate where the hazards are more pronounced and provide a prioritization of remediation that is commensurate with that risk.

## Conclusion

It is imperative that DTE Electric work with the Staff, the DPLD, and other relevant entities to ensure the safety of DTE Electric's distribution system by facilitating the removal of arc wire wherever it presents a potential hazard to the residents of Michigan by coming in contact with DTE Electric's equipment. For reasons set forth in this order and in the December 7 order, maintaining proper line clearances and the safety of DTE Electric's electric distribution system are too important to be left to "working in good faith." DTE Electric's petition for rehearing, p. 3. The Commission is eager to see the progress that DTE Electric has made in the March 30, 2018, report to the Commission as directed in the December 7 order and clarified herein.

THEREFORE, IT IS ORDERED that the petition for rehearing filed by DTE Electric Company on January 8, 2018, is granted, and the requested relief is granted in part.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so by the filing of a claim of appeal in the appropriate court within 30 days of the issuance of this order, under MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at [mpscdockets@michigan.gov](mailto:mpscdockets@michigan.gov) and to the Michigan Department of the Attorney General - Public Service Division at [pungp1@michigan.gov](mailto:pungp1@michigan.gov). In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

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Sally A. Talberg, Chairman

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Norman J. Saari, Commissioner

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Rachael A. Eubanks, Commissioner

By its action of March 15, 2018.

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Kavita Kale, Executive Secretary